
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1028 Session of
2019

INTRODUCED BY McCARTER, CALTAGIRONE, SCHLOSSBERG, HOHENSTEIN,
ZABEL, DAVIDSON, KINSEY, FREEMAN, OTTEN, MURT, WARREN,
COMITTA, ISAACSON, PASHINSKI, RABB, SHUSTERMAN, MADDEN,
STURLA AND ULLMAN, APRIL 2, 2019

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 2, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in firearms and other dangerous
3 articles, further providing for persons not to possess, use,
4 manufacture, control, sell or transfer firearms and for
5 licenses; and providing for firearm restraining order.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 6105 of Title 18 of the Pennsylvania
9 Consolidated Statutes, amended October 12, 2018 (P.L.519,
10 No.79), is amended to read:

11 § 6105. Persons not to possess, use, manufacture, control, sell
12 or transfer firearms.

13 (a) Offense defined.--

14 (1) A person who has been convicted of an offense
15 enumerated in subsection (b), within or without this
16 Commonwealth, regardless of the length of sentence or whose
17 conduct meets the criteria in subsection (c) shall not
18 possess, use, control, sell, transfer or manufacture or

1 obtain a license to possess, use, control, sell, transfer or
2 manufacture a firearm in this Commonwealth.

3 (2) (i) Except as otherwise provided in this
4 paragraph, a person who is prohibited from possessing,
5 using, controlling, selling, transferring or
6 manufacturing a firearm under paragraph (1) or subsection
7 (b) or (c) shall have a reasonable period of time, not to
8 exceed 60 days from the date of the imposition of the
9 disability under this subsection, in which to sell or
10 transfer that person's firearms to another eligible
11 person who is not a member of the prohibited person's
12 household.

13 (ii) This paragraph shall not apply to any person
14 whose disability is imposed pursuant to subsection (c)(6)
15 or (6.1).

16 (iii) A person whose disability is imposed pursuant
17 to subsection (c)(9) shall relinquish any firearms and
18 firearm licenses under that person's possession or
19 control, as described in section 6105.2 (relating to
20 relinquishment of firearms and firearm licenses by
21 convicted persons).

22 (iv) A person whose disability is imposed pursuant
23 to a protection from abuse order shall relinquish any
24 firearms, other weapons, ammunition and firearm licenses
25 under that person's possession or control, as described
26 in 23 Pa.C.S. § 6108(a)(7) (relating to relief).

27 (a.1) Penalty.--

28 (1) Except as provided under paragraph (1.1), a person
29 convicted of a felony enumerated under subsection (b) or a
30 felony under the act of April 14, 1972 (P.L.233, No.64),

1 known as The Controlled Substance, Drug, Device and Cosmetic
2 Act, or any equivalent Federal statute or equivalent statute
3 of any other state, who violates subsection (a) commits a
4 felony of the second degree.

5 (1.1) The following shall apply:

6 (i) A person convicted of a felony enumerated under
7 subsection (b) or a felony under The Controlled
8 Substance, Drug, Device and Cosmetic Act, or any
9 equivalent Federal statute or equivalent statute of any
10 other state, who violates subsection (a) commits a felony
11 of the first degree if:

12 (A) at the time of the commission of a violation
13 of subsection (a), the person has previously been
14 convicted of an offense under subsection (a); or

15 (B) at the time of the commission of a violation
16 of subsection (a), the person was in physical
17 possession or control of a firearm, whether visible,
18 concealed about the person or within the person's
19 reach.

20 (ii) The Pennsylvania Commission on Sentencing,
21 under 42 Pa.C.S. § 2154 (relating to adoption of
22 guidelines for sentencing), shall provide for a
23 sentencing enhancement for a sentence imposed pursuant to
24 this paragraph.

25 (2) A person who is the subject of an active final
26 protection from abuse order issued pursuant to 23 Pa.C.S. §
27 6108, is the subject of any other active protection from
28 abuse order issued pursuant to 23 Pa.C.S. § 6107(b) (relating
29 to hearings) or an active firearm restraining order under
30 section 6190.5 (relating to relief), which provided for the

1 relinquishment of firearms or other weapons or ammunition
2 during the period of time the order is in effect, or is
3 otherwise prohibited from possessing or acquiring a firearm
4 under 18 U.S.C. § 922(g)(8) (relating to unlawful acts),
5 commits a misdemeanor of the second degree if he
6 intentionally or knowingly fails to relinquish a firearm or
7 other weapon or ammunition to the sheriff or appropriate law
8 enforcement agency as defined in 23 Pa.C.S. § 6102 (relating
9 to definitions) as required by the order unless, in lieu of
10 relinquishment, he provides an affidavit which lists the
11 firearms or other weapons or ammunition to the sheriff in
12 accordance with 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2
13 (relating to relinquishment for consignment sale, lawful
14 transfer or safekeeping) or 6108.3 (relating to
15 relinquishment to third party for safekeeping) [.] or in
16 accordance with either section 6190.5(a)(2) or (b)(3)(i) or
17 6190.8 (relating to relinquishment for consignment sale,
18 lawful transfers and safekeeping).

19 (3) (i) A person commits a misdemeanor of the third
20 degree if he intentionally or knowingly accepts
21 possession of a firearm, other weapon or ammunition from
22 another person he knows is the subject of an active final
23 protection from abuse order issued pursuant to 23 Pa.C.S.
24 § 6108 [or], an active protection from abuse order issued
25 pursuant to 23 Pa.C.S. § 6107(b) or an active firearm
26 restraining order under section 6190.5, which order
27 provided for the relinquishment of the firearm, other
28 weapon or ammunition during the period of time the order
29 is in effect.

30 (ii) This paragraph shall not apply to:

1 (A) a third party who accepts possession of a
2 firearm, other weapon or ammunition relinquished
3 pursuant to 23 Pa.C.S. § 6108.3; or

4 (B) a dealer licensed pursuant to section 6113
5 (relating to licensing of dealers) or subsequent
6 purchaser from a dealer licensed pursuant to section
7 6113, who accepts possession of a firearm, other
8 weapon or ammunition relinquished pursuant to section
9 6190.8 or 23 Pa.C.S. § 6108.2.

10 (4) It shall be an affirmative defense to any
11 prosecution under paragraph (3) that the person accepting
12 possession of a firearm, other weapon or ammunition in
13 violation of paragraph (3):

14 (i) notified the sheriff as soon as practicable that
15 he has taken possession; and

16 (ii) relinquished possession of any firearm, other
17 weapon or ammunition possessed in violation of paragraph
18 (3) as directed by the sheriff.

19 (5) A person who has accepted possession of a firearm,
20 other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3 or
21 section 6190.3 (relating to commencement of proceedings)
22 commits a misdemeanor of the first degree if he intentionally
23 or knowingly returns a firearm, other weapon or ammunition to
24 a defendant or intentionally or knowingly allows a defendant
25 to have access to the firearm, other weapon or ammunition
26 prior to either of the following:

27 (i) The sheriff accepts return of the safekeeping
28 permit issued to the party pursuant to 23 Pa.C.S. §
29 6108.3(d)(1)(i).

30 (ii) The issuance of a court order pursuant to

1 subsection (f) (2) or 23 Pa.C.S. § 6108.1(b) (relating to
2 return of relinquished firearms, other weapons and
3 ammunition and additional relief) or section 6190.7(b)
4 (relating to return of relinquished firearms, other
5 weapons and ammunition, and additional relief) which
6 modifies a valid protection from abuse order issued
7 pursuant to 23 Pa.C.S. § 6108 or a valid firearm
8 restraining order under section 6190.5, which order
9 provided for the relinquishment of the firearm, other
10 weapon or ammunition by allowing the defendant to take
11 possession of the firearm, other weapon or ammunition
12 that had previously been ordered relinquished.

13 (b) Enumerated offenses.--The following offenses shall apply
14 to subsection (a):

15 Section 908 (relating to prohibited offensive weapons).

16 Section 911 (relating to corrupt organizations).

17 Section 912 (relating to possession of weapon on school
18 property).

19 Section 2502 (relating to murder).

20 Section 2503 (relating to voluntary manslaughter).

21 Section 2504 (relating to involuntary manslaughter) if
22 the offense is based on the reckless use of a firearm.

23 Section 2702 (relating to aggravated assault).

24 Section 2703 (relating to assault by prisoner).

25 Section 2704 (relating to assault by life prisoner).

26 Section 2709.1 (relating to stalking).

27 Section 2716 (relating to weapons of mass destruction).

28 Section 2901 (relating to kidnapping).

29 Section 2902 (relating to unlawful restraint).

30 Section 2910 (relating to luring a child into a motor

1 vehicle or structure).

2 Section 3121 (relating to rape).

3 Section 3123 (relating to involuntary deviate sexual
4 intercourse).

5 Section 3125 (relating to aggravated indecent assault).

6 Section 3301 (relating to arson and related offenses).

7 Section 3302 (relating to causing or risking
8 catastrophe).

9 Section 3502 (relating to burglary).

10 Section 3503 (relating to criminal trespass) if the
11 offense is graded a felony of the second degree or higher.

12 Section 3701 (relating to robbery).

13 Section 3702 (relating to robbery of motor vehicle).

14 Section 3921 (relating to theft by unlawful taking or
15 disposition) upon conviction of the second felony offense.

16 Section 3923 (relating to theft by extortion) when the
17 offense is accompanied by threats of violence.

18 Section 3925 (relating to receiving stolen property) upon
19 conviction of the second felony offense.

20 Section 4906 (relating to false reports to law
21 enforcement authorities) if the fictitious report involved
22 the theft of a firearm as provided in section 4906(c)(2).

23 Section 4912 (relating to impersonating a public servant)
24 if the person is impersonating a law enforcement officer.

25 Section 4952 (relating to intimidation of witnesses or
26 victims).

27 Section 4953 (relating to retaliation against witness,
28 victim or party).

29 Section 5121 (relating to escape).

30 Section 5122 (relating to weapons or implements for

1 escape).

2 Section 5501(3) (relating to riot).

3 Section 5515 (relating to prohibiting of paramilitary
4 training).

5 Section 5516 (relating to facsimile weapons of mass
6 destruction).

7 Section 6110.1 (relating to possession of firearm by
8 minor).

9 Section 6301 (relating to corruption of minors).

10 Section 6302 (relating to sale or lease of weapons and
11 explosives).

12 Any offense equivalent to any of the above-enumerated
13 offenses under the prior laws of this Commonwealth or any
14 offense equivalent to any of the above-enumerated offenses
15 under the statutes of any other state or of the United
16 States.

17 (c) Other persons.--In addition to any person who has been
18 convicted of any offense listed under subsection (b), the
19 following persons shall be subject to the prohibition of
20 subsection (a):

21 (1) A person who is a fugitive from justice. This
22 paragraph does not apply to an individual whose fugitive
23 status is based upon a nonmoving or moving summary offense
24 under Title 75 (relating to vehicles).

25 (2) A person who has been convicted of an offense under
26 the act of April 14, 1972 (P.L.233, No.64), known as The
27 Controlled Substance, Drug, Device and Cosmetic Act, or any
28 equivalent Federal statute or equivalent statute of any other
29 state, that may be punishable by a term of imprisonment
30 exceeding two years.

1 (3) A person who has been convicted of driving under the
2 influence of alcohol or controlled substance as provided in
3 75 Pa.C.S. § 3802 (relating to driving under influence of
4 alcohol or controlled substance) or the former 75 Pa.C.S. §
5 3731, on three or more separate occasions within a five-year
6 period. For the purposes of this paragraph only, the
7 prohibition of subsection (a) shall only apply to transfers
8 or purchases of firearms after the third conviction.

9 (4) A person who has been adjudicated as an incompetent
10 or who has been involuntarily committed to a mental
11 institution for inpatient care and treatment under section
12 302, 303 or 304 of the provisions of the act of July 9, 1976
13 (P.L.817, No.143), known as the Mental Health Procedures Act.
14 This paragraph shall not apply to any proceeding under
15 section 302 of the Mental Health Procedures Act unless the
16 examining physician has issued a certification that inpatient
17 care was necessary or that the person was committable.

18 (5) A person who, being an alien, is illegally or
19 unlawfully in the United States.

20 (6) A person who is the subject of an active final
21 protection from abuse order issued pursuant to 23 Pa.C.S. §
22 6108, is the subject of any other active protection from
23 abuse order issued pursuant to 23 Pa.C.S. § 6107(b), which
24 provided for the relinquishment of firearms during the period
25 of time the order is in effect or is otherwise prohibited
26 from possessing or acquiring a firearm under 18 U.S.C. §
27 922(g)(8). This prohibition shall terminate upon the
28 expiration or vacation of the order or portion thereof
29 relating to the relinquishment of firearms.

30 (6.1) A person who is the subject of an active firearm

1 restraining order issued under section 6190.5, which order
2 provided for the relinquishment of firearms during the period
3 of time the order is in effect. The prohibition under this
4 paragraph shall terminate upon the expiration or vacation of
5 an active firearm restraining order or upon the expiration or
6 vacation of any provision of a firearm restraining order
7 relating to the relinquishment of firearms.

8 (7) A person who was adjudicated delinquent by a court
9 pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or
10 under any equivalent Federal statute or statute of any other
11 state as a result of conduct which if committed by an adult
12 would constitute an offense under sections 2502, 2503, 2702,
13 2703 (relating to assault by prisoner), 2704, 2901, 3121,
14 3123, 3301, 3502, 3701 and 3923.

15 (8) A person who was adjudicated delinquent by a court
16 pursuant to 42 Pa.C.S. § 6341 or under any equivalent Federal
17 statute or statute of any other state as a result of conduct
18 which if committed by an adult would constitute an offense
19 enumerated in subsection (b) with the exception of those
20 crimes set forth in paragraph (7). This prohibition shall
21 terminate 15 years after the last applicable delinquent
22 adjudication or upon the person reaching the age of 30,
23 whichever is earlier.

24 (9) A person who is prohibited from possessing or
25 acquiring a firearm under 18 U.S.C. § 922(g)(9). If the
26 offense which resulted in the prohibition under 18 U.S.C. §
27 922(g)(9) was committed, as provided in 18 U.S.C. § 921(a)
28 (33)(A)(ii) (relating to definitions), by a person in any of
29 the following relationships:

30 (i) the current or former spouse, parent or guardian

1 of the victim;

2 (ii) a person with whom the victim shares a child in
3 common;

4 (iii) a person who cohabits with or has cohabited
5 with the victim as a spouse, parent or guardian; or

6 (iv) a person similarly situated to a spouse, parent
7 or guardian of the victim;

8 then the relationship need not be an element of the offense
9 to meet the requirements of this paragraph.

10 (10) A person who has been convicted of an offense under
11 subsection (a.1)(2). The prohibition shall terminate five
12 years after the date of conviction, final release from
13 confinement or final release from supervision, whichever is
14 later.

15 (d) Exemption.--A person who has been convicted of a crime
16 specified in subsection (a) or (b) or a person whose conduct
17 meets the criteria in subsection (c)(1), (2), (5), (7) or (9)
18 may make application to the court of common pleas of the county
19 where the principal residence of the applicant is situated for
20 relief from the disability imposed by this section upon the
21 possession, transfer or control of a firearm. The court shall
22 grant such relief if it determines that any of the following
23 apply:

24 (1) The conviction has been vacated under circumstances
25 where all appeals have been exhausted or where the right to
26 appeal has expired.

27 (2) The conviction has been the subject of a full pardon
28 by the Governor.

29 (3) Each of the following conditions is met:

30 (i) The Secretary of the Treasury of the United

1 States has relieved the applicant of an applicable
2 disability imposed by Federal law upon the possession,
3 ownership or control of a firearm as a result of the
4 applicant's prior conviction, except that the court may
5 waive this condition if the court determines that the
6 Congress of the United States has not appropriated
7 sufficient funds to enable the Secretary of the Treasury
8 to grant relief to applicants eligible for the relief.

9 (ii) A period of ten years, not including any time
10 spent in incarceration, has elapsed since the most recent
11 conviction of the applicant of a crime enumerated in
12 subsection (b), a felony violation of The Controlled
13 Substance, Drug, Device and Cosmetic Act or the offense
14 which resulted in the prohibition under 18 U.S.C. §
15 922(g)(9).

16 (e) Proceedings.--

17 (1) If a person convicted of an offense under subsection
18 (a), (b) or (c)(1), (2), (5), (7) or (9) makes application to
19 the court, a hearing shall be held in open court to determine
20 whether the requirements of this section have been met. The
21 commissioner and the district attorney of the county where
22 the application is filed and any victim or survivor of a
23 victim of the offense upon which the disability is based may
24 be parties to the proceeding.

25 (2) Upon application to the court of common pleas
26 pursuant to paragraph (1) by an applicant who is subject to
27 the prohibition under subsection (c)(3), the court shall
28 grant such relief if a period of ten years, not including any
29 time spent in incarceration, has passed since the applicant's
30 most recent conviction under subsection (c)(3).

1 (f) Other exemptions and proceedings.--

2 (1) Upon application to the court of common pleas under
3 this subsection by an applicant subject to the prohibitions
4 under subsection (c)(4), the court may grant such relief as
5 it deems appropriate if the court determines that the
6 applicant may possess a firearm without risk to the applicant
7 or any other person.

8 (2) If application is made under this subsection for
9 relief from the disability imposed under subsection (c)(6) or
10 (6.1), notice of such application shall be given to the
11 person who had petitioned for the protection from abuse order
12 or a firearm restraining order, and such person shall be a
13 party to the proceedings. Notice of any court order or
14 amendment to a court order restoring firearms possession or
15 control shall be given to the person who had petitioned for
16 the protection from abuse order or a firearm restraining
17 order, to the sheriff and to the Pennsylvania State Police[.]
18 and, in the case of a firearm restraining order, to the
19 appropriate law enforcement agency and district attorney in
20 the county wherein the firearm restraining order was issued.
21 The application and any proceedings on the application shall
22 comply with 23 Pa.C.S. Ch. 61 (relating to protection from
23 abuse) or with the applicable provisions of Subchapter E
24 (relating to firearm restraining order).

25 (3) All hearings conducted under this subsection shall
26 be closed unless otherwise requested to be open by the
27 applicant.

28 (4) (i) The owner of any seized or confiscated firearms
29 or of any firearms ordered relinquished under 23 Pa.C.S.
30 § 6108 or under section 6190.5 shall be provided with a

1 signed and dated written receipt by the appropriate law
2 enforcement agency. This receipt shall include, but not
3 limited to, a detailed identifying description indicating
4 the serial number and condition of the firearm. In
5 addition, the appropriate law enforcement agency shall be
6 liable to the lawful owner of said confiscated, seized or
7 relinquished firearm for any loss, damage or substantial
8 decrease in value of said firearm that is a direct result
9 of a lack of reasonable care by the appropriate law
10 enforcement agency.

11 (ii) Firearms shall not be engraved or permanently
12 marked in any manner, including, but not limited to,
13 engraving of evidence or other identification numbers.
14 Unless reasonable suspicion exists to believe that a
15 particular firearm has been used in the commission of a
16 crime, no firearm shall be test fired. Any reduction in
17 the value of a firearm due to test firing, engraving or
18 permanently marking in violation of this paragraph shall
19 be considered damage, and the law enforcement agency
20 shall be liable to the lawful owner of the firearm for
21 the reduction in value caused by the test firing,
22 engraving or permanently marking.

23 (iii) For purposes of this paragraph, the term
24 "firearm" shall include any scope, sight, bipod, sling,
25 light, magazine, clip, ammunition or other firearm
26 accessory attached to or seized, confiscated or
27 relinquished with a firearm.

28 (g) Other restrictions.--Nothing in this section shall
29 exempt a person from a disability in relation to the possession
30 or control of a firearm which is imposed as a condition of

1 probation or parole or which is imposed pursuant to the
2 provision of any law other than this section.

3 (h) License prohibition.--Any person who is prohibited from
4 possessing, using, controlling, selling, purchasing,
5 transferring or manufacturing any firearm under this section
6 shall not be eligible for or permitted to obtain a license to
7 carry a firearm under section 6109 (relating to licenses).

8 (i) Firearm.--As used in this section only, the term
9 "firearm" shall include any weapons which are designed to or may
10 readily be converted to expel any projectile by the action of an
11 explosive or the frame or receiver of any such weapon.

12 (j) Copy of order to State Police.--If the court grants
13 relief from the disabilities imposed under this section, a copy
14 of the order shall be sent by the prothonotary within ten days
15 of the entry of the order to the Pennsylvania State Police and
16 shall include the name, date of birth and Social Security number
17 of the individual.

18 Section 2. Section 6109(i.1) and (m.1) of Title 18 are
19 amended to read:

20 § 6109. Licenses.

21 * * *

22 (i.1) Notice to sheriff.--Notwithstanding any statute to the
23 contrary:

24 (1) Upon conviction of a person for a crime specified in
25 section 6105(a) or (b) or upon conviction of a person for a
26 crime punishable by imprisonment exceeding one year or upon a
27 determination that the conduct of a person meets the criteria
28 specified in section 6105(c) (1), (2), (3), (5), (6), (6.1) or
29 (9), the court shall determine if the defendant has a license
30 to carry firearms issued pursuant to this section. If the

1 defendant has such a license, the court shall notify the
2 sheriff of the county in which that person resides, on a form
3 developed by the Pennsylvania State Police, of the identity
4 of the person and the nature of the crime or conduct which
5 resulted in the notification. The notification shall be
6 transmitted by the judge within seven days of the conviction
7 or determination.

8 (2) Upon adjudication that a person is incompetent or
9 upon the involuntary commitment of a person to a mental
10 institution for inpatient care and treatment under the act of
11 July 9, 1976 (P.L.817, No.143), known as the Mental Health
12 Procedures Act, or upon involuntary treatment of a person as
13 described under section 6105(c)(4) or 6190.6(c)(3)(ii)(F)
14 (relating to hearing), the judge of the court of common
15 pleas, mental health review officer or county mental health
16 and mental retardation administrator shall notify the sheriff
17 of the county in which that person resides, on a form
18 developed by the Pennsylvania State Police, of the identity
19 of the person who has been adjudicated, committed or treated
20 and the nature of the adjudication, commitment or treatment.
21 The notification shall be transmitted by the judge, mental
22 health review officer or county mental health and mental
23 retardation administrator within seven days of the
24 adjudication, commitment or treatment.

25 * * *

26 (m.1) Temporary emergency licenses.--

27 (1) A person seeking a temporary emergency license to
28 carry a concealed firearm shall submit to the sheriff of the
29 county in which the person resides all of the following:

30 (i) Evidence of imminent danger to the person or the

1 person's minor child. For purposes of this subparagraph,
2 the term "minor" shall have the same meaning as provided
3 in 1 Pa.C.S. § 1991 (relating to definitions).

4 (ii) A sworn affidavit that contains the information
5 required on an application for a license to carry a
6 firearm and attesting that the person is 21 years of age
7 or older, is not prohibited from owning firearms under
8 section 6105 (relating to persons not to possess, use,
9 manufacture, control, sell or transfer firearms) or any
10 other Federal or State law and is not currently subject
11 to a protection from abuse order or a protection order
12 issued by a court of another state or an active firearm
13 restraining order under Subchapter E (relating to firearm
14 restraining order).

15 (iii) In addition to the provisions of subsection
16 (h), a temporary emergency license fee established by the
17 Commissioner of the Pennsylvania State Police for an
18 amount that does not exceed the actual cost of conducting
19 the criminal background check or \$10, whichever is less.

20 (iv) An application for a license to carry a firearm
21 on the form prescribed pursuant to subsection (c).

22 (2) Upon receipt of the items required under paragraph
23 (1), the sheriff immediately shall conduct a criminal
24 history, juvenile delinquency and mental health record check
25 of the applicant pursuant to section 6105. Immediately upon
26 receipt of the results of the records check, the sheriff
27 shall review the information and shall determine whether the
28 applicant meets the criteria set forth in this subsection. If
29 the sheriff determines that the applicant has met all of the
30 criteria, the sheriff shall immediately issue the applicant a

1 temporary emergency license to carry a concealed firearm.

2 (3) If the sheriff refuses to issue a temporary
3 emergency license, the sheriff shall specify the grounds for
4 the denial in a written notice to the applicant. The
5 applicant may appeal the denial or challenge criminal records
6 check results that were the basis of the denial, if
7 applicable, in the same manner as a denial of a license to
8 carry a firearm under this section.

9 (4) A temporary emergency license issued under this
10 subsection shall be valid for 45 days and may not be renewed.
11 A person who has been issued a temporary emergency license
12 under this subsection shall not be issued another temporary
13 emergency license unless at least five years have expired
14 since the issuance of the prior temporary emergency license.
15 During the 45 days the temporary emergency license is valid,
16 the sheriff shall conduct an additional investigation of the
17 person for the purposes of determining whether the person may
18 be issued a license pursuant to this section. If, during the
19 course of this investigation, the sheriff discovers any
20 information that would have prohibited the issuance of a
21 license pursuant to this section, the sheriff shall be
22 authorized to revoke the temporary emergency license as
23 provided in subsection (i).

24 (5) The temporary emergency license issued pursuant to
25 this section shall be consistent with the form prescribed in
26 subsection (e) (3), (4) and (5). In addition to the
27 information provided in those paragraphs, the temporary
28 emergency license shall be clearly marked "Temporary."

29 (6) A person who holds a temporary emergency license to
30 carry a firearm shall have the same rights to carry a firearm

1 as a person issued a license to carry a firearm under this
2 section. A licensee under this subsection shall be subject to
3 all other duties, restrictions and penalties under this
4 section, including revocation pursuant to subsection (i).

5 (7) A sheriff who issues a temporary emergency license
6 to carry a firearm shall retain, for the entire period during
7 which the temporary emergency license is in effect, the
8 evidence of imminent danger that the applicant submitted to
9 the sheriff that was the basis for the license, or a copy of
10 the evidence, as appropriate.

11 (8) A person applying for a temporary emergency license
12 shall complete the application required pursuant to
13 subsection (c) and shall provide at the time of application
14 the information required in paragraph (1).

15 (9) Prior to the expiration of a temporary emergency
16 license, if the sheriff has determined pursuant to
17 investigation that the person issued a temporary emergency
18 license is not disqualified and if the temporary emergency
19 license has not been revoked pursuant to subsection (i), the
20 sheriff shall issue a license pursuant to this section that
21 is effective for the balance of the five-year period from the
22 date of the issuance of the temporary emergency license.
23 Records and all other information, duties and obligations
24 regarding such licenses shall be applicable as otherwise
25 provided in this section.

26 (10) As used in this subsection, the term "evidence of
27 imminent danger" means:

28 (i) a written document prepared by the Attorney
29 General, a district attorney, a chief law enforcement
30 officer, judicial officer or their designees describing

1 the facts that give a person reasonable cause to fear a
2 criminal attack upon the person or the person's minor
3 child. For the purposes of this subparagraph, the term
4 "chief law enforcement officer" shall have the same
5 meaning as provided in 42 Pa.C.S. § 8951 (relating to
6 definitions) and "judicial officer" shall have the same
7 meaning as provided in 42 Pa.C.S. § 102 (relating to
8 definitions).

9 (ii) a police report.

10 * * *

11 Section 3. Chapter 61 of Title 18 is amended by adding a
12 subchapter to read:

13 SUBCHAPTER E

14 FIREARM RESTRAINING ORDER

15 Sec.

16 6190.1. Definitions.

17 6190.2. Jurisdiction.

18 6190.3. Commencement of proceedings.

19 6190.4. Responsibilities of law enforcement agencies.

20 6190.5. Relief.

21 6190.6. Hearing.

22 6190.7. Return of relinquished firearms, other weapons and

23 ammunition, and additional relief.

24 6190.8. Relinquishment for consignment sale, lawful transfers

25 and safekeeping.

26 6190.9. Disclosure and confidentiality.

27 6190.10. Service of order.

28 6190.11. Violation of order.

29 6190.12. Contempt for violations and arrest.

30 6190.13. Civil contempt for violation of an order.

1 6190.14. Procedures and other remedies.

2 6190.15. Immunity.

3 6190.16. Inability to pay.

4 6190.17. Warrantless searches.

5 6190.18. Construction.

6 § 6190.1. Definitions.

7 The following words and phrases when used in this subchapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Family or household member." As defined in 23 Pa.C.S. §
11 6102 (relating to definitions).

12 "Firearm." As defined in section 6113(d) (relating to
13 licensing of dealers).

14 "Firearm restraining order." An order entered by the court
15 under this subchapter prohibiting a named person from having in
16 the person's custody or control, purchasing, possessing or
17 receiving any firearms, other weapons or ammunition.

18 "Hearing officer." As defined in 23 Pa.C.S. § 6102.

19 "Law enforcement officer." Any officer of the Commonwealth
20 or a political subdivision who is empowered to conduct
21 investigations of or to make arrests for offenses enumerated in
22 this title and any attorney authorized by law to prosecute or
23 participate in the prosecution of an offense.

24 "Other weapon." Anything readily capable of lethal use and
25 possessed under circumstances not manifestly appropriate for
26 lawful uses which it may have. The term does not include a
27 firearm.

28 "Physical safety." Personal or physical harm or bodily
29 injury or the threat of personal or physical harm or bodily
30 injury whether by acts of hostility, aggression or harassment.

1 "Safekeeping permit." A permit issued by a sheriff allowing
2 a person to take possession of any firearm, other weapon or
3 ammunition that a judge ordered a subject in a proceeding under
4 this subchapter.

5 "Sheriff."

6 (1) Except as provided in paragraph (2), the sheriff of
7 a county.

8 (2) In a city of the first class, the chief or head of
9 the police department.

10 "Subject." A person who is the subject of a petition for a
11 firearm restraining order or the subject of a firearm
12 restraining order.

13 "Weapon." Anything readily capable of lethal use and
14 possessed under circumstances not manifestly appropriate for
15 lawful uses which it may have. The term includes a firearm which
16 is not loaded or lacks a magazine, clip or other components to
17 render it immediately operable and components which can readily
18 be assembled into a weapon as defined by section 907 (relating
19 to possessing instruments of crime).

20 § 6190.2. Jurisdiction.

21 (a) General rule.--The court shall have jurisdiction over
22 all proceedings under this subchapter and may, at the court's
23 discretion, develop rules or procedures as necessary to govern
24 proceedings under this subchapter.

25 (b) Effect of departure and nonresidence.--The right of the
26 petitioner to relief under this subchapter shall not be affected
27 by the absence of the subject from this Commonwealth or the
28 nonresidence of the subject in this Commonwealth, if the court
29 has personal jurisdiction over the person in accordance with 42
30 Pa.C.S. § 5322 (relating to bases of personal jurisdiction over

1 persons outside this Commonwealth).

2 § 6190.3. Commencement of proceedings.

3 (a) Petition.--

4 (1) A law enforcement officer, a family or household
5 member or a person licensed under the act of July 9, 1987
6 (P.L.220, No.39), known as the Social Workers, Marriage and
7 Family Therapists and Professional Counselors Act, or a
8 health care practitioner as defined under section 103 of the
9 act of July 19, 1979 (P.L.130, No.48), known as the Health
10 Care Facilities Act, may petition the court for a firearm
11 restraining order enjoining the subject from having in the
12 subject's custody or control, purchasing, possessing or
13 receiving a firearm, other weapon or ammunition.

14 (2) A petition for a firearm restraining order must
15 include instructions which, in the court's discretion, must
16 require the petitioner to describe the number, type and
17 location of any firearm, other weapon and ammunition known by
18 the petitioner to be owned, possessed or controlled by the
19 subject.

20 (b) Notification of defendant's occupation.--A law
21 enforcement officer, family or household member or other person
22 under subsection (a)(1) shall notify the court if the person has
23 knowledge or reason to believe that the subject is any of the
24 following:

25 (1) a licensed firearms dealer;

26 (2) employed by a licensed firearms dealer or
27 manufacturer;

28 (3) employed as a writer, researcher or technician in
29 the firearms or hunting industry; or

30 (4) required to carry a firearm as a condition of

1 employment.

2 (c) Certain fees not permitted.--

3 (1) A person seeking relief under this subchapter shall
4 not be charged any fees or costs associated with the filing,
5 issuance, registration or service of a petition, motion,
6 complaint, order or any other filing required under this
7 subchapter. Prohibited fees or costs shall include, but are
8 not limited to, those associated with modifying, withdrawing,
9 dismissing or certifying copies of a petition, motion,
10 complaint, order or any other filing, as well as any judicial
11 surcharge or computer system fee.

12 (2) A person seeking relief under this subchapter shall
13 not be charged any fees or costs associated with filing a
14 motion for reconsideration or an appeal from any order or
15 action taken under this subchapter.

16 (3) Nothing in this subsection shall be construed to
17 expand or diminish the court's authority to enter an order
18 under Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of
19 Documents. Representations to the Court. Violation).

20 (d) Assessment of fees and costs.--

21 (1) If a firearm restraining order is granted under this
22 subchapter, fees and costs may be assessed against the
23 subject.

24 (2) The court shall waive fees and costs upon a showing
25 of good cause or if the court makes a finding that the
26 subject is not able to pay the fees and costs.

27 (3) Nothing in this subsection shall be construed to
28 expand or diminish the court's authority to enter an order
29 under Pa.R.C.P. No. 1023.1.

30 (e) Surcharge on order.--

1 (1) Notwithstanding subsection (d), if a firearm
2 restraining order is granted under this subchapter, a
3 surcharge of \$100 shall be assessed against the subject.

4 (2) All money received from surcharges shall be
5 distributed in the following order of priority:

6 (i) Fifty percent shall be forwarded to the
7 Commonwealth and shall be allocated annually, upon
8 appropriation by the General Assembly, as follows:

9 (A) Fifty percent to the Pennsylvania State
10 Police to assist with the maintenance of the
11 Statewide registry established in accordance with 23
12 Pa.C.S. § 6105(e) (relating to responsibilities of
13 law enforcement agencies).

14 (B) Fifty percent to the Supreme Court for use
15 by county courts and magisterial district courts to
16 carry out their duties under this subchapter.

17 (ii) Fifty percent shall be retained by the county
18 and shall be used to carry out the provisions of this
19 subchapter as follows:

20 (A) Fifty percent shall be used by the sheriff.

21 (B) Fifty percent shall be forwarded to the
22 local law enforcement agency.

23 (3) The allocation under paragraph (2) (i) shall be used
24 to supplement and not to supplant any other source of funds
25 received for the purpose of carrying out the provisions of
26 this subchapter.

27 (f) Service.--

28 (1) The court shall adopt a means of prompt and
29 effective service. If the court adopts a means of prompt and
30 effective service, the sheriff or another court-designated

1 agency or individual shall serve the petition and order. The
2 petitioner shall not be obligated to serve the petition or
3 firearm restraining order.

4 (2) The petition and order shall be served upon the
5 subject.

6 (3) Within two business days, the order shall be served
7 upon the local law enforcement agency, sheriff and district
8 attorney in the jurisdiction where the order was entered.

9 (4) A certified copy of the order shall be issued to the
10 petitioner.

11 (5) A copy of the order shall be issued as otherwise
12 ordered by the court or hearing officer.

13 (6) Failure to serve the local law enforcement agency,
14 sheriff or district attorney's office shall not stay the
15 effect of a valid order.

16 (g) Assistance and advice to petitioner.--The court or
17 hearing officer shall provide simplified forms and clerical
18 assistance in English and Spanish to help with the writing and
19 filing of petitions for firearm restraining orders for any
20 individual requesting the assistance or not represented by
21 counsel.

22 § 6190.4. Responsibilities of law enforcement agencies.

23 (a) Education and training.--

24 (1) The Pennsylvania State Police, local law enforcement
25 agencies and the sheriff of each county shall ensure that the
26 entities' troopers, officers, deputies and other designated
27 employees are familiar with the provisions of this
28 subchapter.

29 (2) Instruction concerning firearm restraining orders
30 shall be made a part of the training curriculum for all

1 trainee troopers, officers and deputies or other designated
2 employees of the Pennsylvania State Police, local law
3 enforcement agencies and the sheriff.

4 (3) The Pennsylvania State Police and all other law
5 enforcement agencies within this Commonwealth shall adopt a
6 written policy to govern firearm restraining orders.

7 (b) Notice of arrest.--The applicable law enforcement agency
8 shall make reasonable effort to notify a family or household
9 member or other person under section 6190.3(a)(1) (relating to
10 commencement of proceedings) of the arrest of the subject for
11 violation of an order as soon as possible, except that, if a
12 family or household member or other person cannot be located at
13 the time of arrest, notice of the arrest shall be provided not
14 more than 24 hours after preliminary arraignment.

15 (c) Statewide registry.--

16 (1) Notwithstanding any other provision of law or
17 regulation, the Pennsylvania State Police shall enter each
18 valid temporary and final firearm restraining order granted
19 under this subchapter into the Statewide registry established
20 under 23 Pa.C.S. § 6105(e) (relating to responsibilities of
21 law enforcement agencies). The registry of firearm
22 restraining orders maintained in the Statewide registry shall
23 include, but may not be limited to, the following:

24 (i) The names of the petitioner and family and
25 household members of the subject, if known.

26 (ii) The name and address of the subject.

27 (iii) The familial and professional relationship
28 between the petitioners and the subject, if known.

29 (iv) The date the order was entered.

30 (v) The date the order expires.

1 (vi) The relief granted under this subchapter.

2 (vii) The judicial district in which the order was
3 entered.

4 (viii) The Social Security number and date of birth
5 of the subject.

6 (ix) A listing of all firearms, other weapons or
7 ammunition ordered to be relinquished.

8 (2) (i) The prothonotary shall send, on a form
9 prescribed by the Pennsylvania State Police, a copy of
10 the firearm restraining order to the Statewide registry
11 so that the copy is received within 24 hours of the entry
12 of the order.

13 (ii) Amendments to or the revocation, vacation or
14 expiration of an order shall be transmitted by the
15 prothonotary within 24 hours of the entry of the order
16 for modification or revocation, vacation or expiration.

17 (iii) The Pennsylvania State Police shall enter
18 orders, amendments, revocations, vacations and
19 expirations in the Statewide registry of firearm
20 restraining orders within eight hours of receipt.

21 (iv) Each revoked, vacated or expired order shall be
22 purged from the registry within eight hours of receipt.

23 (3) The Statewide registry shall be available at all
24 times to inform courts, police dispatchers and law
25 enforcement officers of any valid firearm restraining order
26 involving any individual subject to an order.

27 (4) If an order granting relief under section 6190.5(b)
28 (3) (relating to relief) has been entered by the court, the
29 information shall be available to the Pennsylvania State
30 Police for the purpose of conducting a criminal history

1 records check, juvenile records check and mental health
2 records check following the procedures under section 6111
3 (relating to sale or transfer of firearms).

4 (5) Information contained in the Statewide registry
5 shall not be subject to access under the act of February 14,
6 2008 (P.L.6, No.3), known as the Right-to-Know Law.

7 (d) Information concerning firearm restraining orders.--Each
8 local law enforcement agency shall transmit to the Pennsylvania
9 State Police, in a manner prescribed by the Pennsylvania State
10 Police, the information specified under subsection (c)(1).

11 (e) Annual report.--

12 (1) The Pennsylvania State Police shall annually compile
13 and publish in the Pennsylvania Bulletin a Statewide report
14 which includes aggregate, county-based statistical profiles
15 of firearm restraining orders granted under this subchapter.

16 (2) The Pennsylvania State Police shall incorporate the
17 report under paragraph (1) into the annual report compiled in
18 accordance with 23 Pa.C.S. § 6105(g).

19 § 6190.5. Relief.

20 (a) Issuance of order.--Notwithstanding any other provision
21 of law, the court:

22 (1) May issue a firearm restraining order enjoining the
23 subject of a petition from having in the subject's custody or
24 control, purchasing, possessing or receiving a firearm, other
25 weapon or ammunition if the court determines that there is
26 good cause to believe that the subject poses an immediate and
27 present danger to the physical safety of a family or
28 household member or other person by having in the subject's
29 custody or control, purchasing, possessing or receiving a
30 firearm, other weapon or ammunition.

1 (2) Shall issue a firearm restraining order enjoining
2 the subject of a protection order under 23 Pa.C.S. (relating
3 to domestic relations) from having in the subject's custody
4 or control, purchasing, possessing or receiving a firearm,
5 other weapon or ammunition.

6 (b) Regulations and prohibitions.--A firearm restraining
7 order issued by the court under subsection (a) may:

8 (1) Prohibit the subject from having in the subject's
9 custody or control, purchasing, possessing or receiving or
10 attempting to purchase, possess or receive a firearm, other
11 weapon or ammunition for the duration of the order.

12 (2) Require the subject to relinquish to the sheriff any
13 firearm license in accordance with section 6106 (relating to
14 firearms not to be carried without a license) or 6109
15 (relating to licenses) the defendant may possess.

16 (3) Order the subject to temporarily relinquish to the
17 sheriff any firearm or other weapons and ammunition which the
18 subject may own, possess or have in the subject's custody or
19 control. If relinquishment is ordered, the following shall
20 apply:

21 (i) (A) The court's order shall require the subject
22 to relinquish the firearms, other weapons, ammunition
23 and any firearm license under the provisions of this
24 section within 24 hours of service of a temporary
25 order or the entry of a final order or the close of
26 the next business day as necessary by closure of the
27 sheriffs' offices, except for cause shown at the
28 hearing, in which case the court shall specify the
29 time for relinquishment of the subject's firearms,
30 other weapons and ammunition or firearm license.

1 (B) A subject who is required to relinquish
2 firearms, other weapons and ammunition shall, in lieu
3 of relinquishing specific firearms, other weapons or
4 ammunition which cannot reasonably be retrieved
5 within the time for relinquishment in clause (A) due
6 to their current location, provide the sheriff with
7 an affidavit listing the firearms, other weapons or
8 ammunition and their current location. If the
9 subject, within the time for relinquishment in clause
10 (A), fails to provide the affidavit or fails to
11 relinquish, under this section, any firearms, other
12 weapon or ammunition ordered to be relinquished which
13 is not specified in the affidavit, the sheriff shall,
14 at a minimum, provide immediate notice to the court,
15 the petitioner and appropriate law enforcement
16 agencies. The subject shall not have in the subject's
17 custody or control or possession any firearm, other
18 weapon or ammunition specifically listed in the
19 affidavit provided to the sheriff under this clause
20 for the duration of the temporary order.

21 (C) As used in this subparagraph, the term
22 "cause" shall be limited to facts relating to the
23 inability of the subject to retrieve a specific
24 firearm within 24 hours due to the current location
25 of the firearm.

26 (ii) The court's order shall contain a list of the
27 firearm, other weapon or ammunition ordered to be
28 relinquished. Upon the entry of a final order, the
29 subject shall inform the court in what manner the subject
30 will relinquish any firearm, other weapon or ammunition

1 ordered to be relinquished. Relinquishment may occur
2 under section 6190.8 (relating to relinquishment for
3 consignment sale, lawful transfers and safekeeping) or to
4 the sheriff under this paragraph. If the sheriff is
5 designated, the sheriff shall secure custody of the
6 firearms, other weapons or ammunition and any firearm
7 license listed in the court's order for the duration of
8 the order or until otherwise directed by court order. In
9 securing custody of the subject's relinquished firearms,
10 the sheriff shall comply with section 6105(f)(4)
11 (relating to persons not to possess, use, manufacture,
12 control, sell or transfer firearms). In securing custody
13 of the subject's other weapons and ammunition, the
14 sheriff shall provide the subject with a signed and dated
15 written receipt which shall include a detailed
16 description of the other weapons and ammunition and their
17 condition.

18 (iii) The sheriff shall provide the petitioner with
19 the name of the person to which any firearm, other weapon
20 or ammunition was relinquished.

21 (iv) If the subject has not complied with
22 subparagraph (i)(B) or section 6190.8 and fails to
23 relinquish any firearm, other weapon, ammunition or
24 firearm license within 24 hours or upon the close of the
25 next business day due to closure of sheriffs' offices or
26 within the time ordered by the court upon cause shown at
27 the hearing, the sheriff shall, at a minimum, provide
28 immediate notice to the court, the petitioner and
29 appropriate law enforcement agencies.

30 (v) Any portion of any order or any petition or

1 other paper that includes a list of any firearm, other
2 weapon or ammunition ordered to be relinquished shall be
3 kept in the files of the court as a permanent record and
4 withheld from public inspection except:

5 (A) upon an order of the court granted upon
6 cause shown;

7 (B) as necessary, by law enforcement and court
8 personnel; or

9 (C) after redaction of information listing any
10 firearm, other weapon or ammunition.

11 (vi) As used in this paragraph, the term "subject's
12 firearms" shall, if the subject is a licensed firearms
13 dealer, only include firearms in the subject's personal
14 firearms collection under 27 CFR § 478.125a (relating to
15 personal firearms collection).

16 (4) If the subject is a licensed firearms dealer, order
17 the subject to follow restrictions as the court may require
18 concerning the conduct of the subject's business, which may
19 include ordering the subject to relinquish any Federal or
20 State license for the sale, manufacture or importation of
21 firearms as well as firearms in the subject's business
22 inventory. In restricting the subject under this paragraph,
23 the court shall make a reasonable effort to preserve the
24 financial assets of the subject's business while fulfilling
25 the goals of this subchapter.

26 (c) Identifying information.--Any order issued under this
27 section shall specify the Social Security number and date of
28 birth of the subject.

29 (d) Duration and amendment of order.--

30 (1) A firearm restraining order shall be for a fixed

1 period of time not to exceed one year.

2 (2) The court may amend its order at any time upon
3 subsequent petition filed by a petitioner, family or
4 household member or other person under section 6190.3
5 (relating to commencement of proceedings).

6 (e) Extension of firearm restraining order.--

7 (1) An extension of a firearm restraining order may be
8 granted:

9 (i) Where the court finds, after a filed petition,
10 notice to the subject and a hearing in accordance with
11 the procedures specified in sections 6190.5 (relating to
12 relief) and 6190.6 (relating to hearing) that the subject
13 is alleged to have committed one or more of the offenses
14 enumerated in section 6105(b) or has engaged in a pattern
15 of conduct which indicates a continued risk of danger to
16 the physical safety of the petitioner, family or
17 household member or other person or the subject
18 subsequent to the entry of the final order.

19 (ii) If a contempt petition or charge has been filed
20 with the court or with a hearing officer in Philadelphia
21 County and the hearing has not occurred before the
22 expiration of the order, the order shall be extended, at
23 a minimum, until the disposition of the contempt petition
24 and may be extended for another term beyond the
25 disposition of the contempt petition.

26 (2) Service of an extended order shall be made in
27 accordance with section 6190.10 (relating to service of
28 order).

29 (3) There shall be no limitation on the number of
30 extensions that may be granted.

1 (f) Notice.--Notice shall be given to the subject, in orders
2 issued under this section and temporary orders issued under
3 section 6190.6, stating that violations of a firearm restraining
4 order will subject the subject of the firearm restraining order
5 to arrest under section 6105 or 6190.11 (relating to violation
6 of order) or contempt of court under section 6190.12 (relating
7 to contempt for violation and arrest).

8 (g) Transmission of order.--A copy of the court's order
9 shall be transmitted to the Pennsylvania State Police, the chief
10 or head of the local law enforcement agency of the municipality
11 in which the subject is a resident and in which the order was
12 issued, the district attorney and the sheriff of the county in
13 which the subject is a resident and in which the order was
14 issued.

15 (h) False reports.--A person who knowingly gives false
16 information to any law enforcement officer with the intent to
17 implicate another under this chapter commits an offense under
18 section 4906 (relating to false reports to law enforcement
19 authorities).

20 § 6190.6. Hearing.

21 (a) Schedule of hearing.--Within 10 business days of the
22 filing of a petition under this subchapter, a hearing shall be
23 held before the court at which the petitioner must prove the
24 allegation, by a preponderance of the evidence, that the subject
25 of the petition poses an immediate and present danger to the
26 physical safety of the petitioner, family or household member,
27 other person or the subject. The court shall, at the time the
28 subject of the petition is given notice of the hearing, advise
29 the subject of the following:

30 (1) The right to be represented by counsel.

1 (2) The possibility that any firearm, other weapon or
2 ammunition owned and any firearm license possessed by the
3 subject may be ordered to be temporarily relinquished.

4 (3) The options for relinquishment of a firearm under
5 this subchapter.

6 (4) The possibility that Federal law may prohibit the
7 possession of firearms.

8 (5) The penalty for violation of the firearm restraining
9 order.

10 (6) Any firearm restraining order granted by a court may
11 be considered in any subsequent proceedings under this title.
12 The notice shall be printed and delivered in a manner which
13 easily attracts attention to its content.

14 (b) Review prior to hearing.--Prior to a hearing on the
15 issuance, extension or vacation of a firearm restraining order,
16 the court shall conduct a review to determine whether the
17 subject of the petition has been convicted of or has pled guilty
18 or nolo contendere to any of the enumerated offenses under
19 section 6105(b) (relating to persons not to possess, use,
20 manufacture, control, sell or transfer firearms).

21 (c) Temporary orders.--The following shall apply:

22 (1) If a law enforcement officer, family or household
23 member or other person under section 6190.3 (relating to
24 commencement of proceedings) petitions the court for a
25 temporary firearm restraining order alleging an immediate and
26 present danger to the physical safety of a family or
27 household member, another person or the subject of the
28 petition, the court shall conduct an ex parte proceeding.

29 (2) The court may enter a temporary order as the court
30 deems necessary to protect the petitioner, a family or

1 household member, other person or the subject, if the
2 petition demonstrates that the subject poses an immediate and
3 present danger to the physical safety of the petitioner,
4 family or household member, other person or the subject. The
5 order shall remain in effect until modified or terminated by
6 the court after notice and hearing.

7 (3) In addition to any other relief, the court may,
8 under section 6190.5 (relating to relief), direct the subject
9 to temporarily relinquish to the sheriff any firearms, other
10 weapons or ammunition for the duration of the temporary order
11 if the petition demonstrates any of the following:

12 (i) Conduct which involves a firearm or other
13 weapon.

14 (ii) An immediate and present danger to physical
15 safety. In determining whether an immediate and present
16 danger to physical safety exists, the court shall
17 consider the following factors, including, but not
18 limited to:

19 (A) Whether the temporary firearm restraining
20 order is not likely to achieve the order's purpose in
21 the absence of such a condition.

22 (B) Whether the subject has previously violated
23 a protection from abuse order under 23 Pa.C.S. Ch. 61
24 (relating to protection from abuse).

25 (C) Whether past or present conduct or abuse of
26 a family or household member, another person or the
27 subject resulted in bodily injury.

28 (D) Whether the conduct or abuse occurred in
29 public.

30 (E) Whether the conduct or abuse includes:

1 (I) threats to physical safety or of abuse
2 or suicide;

3 (II) killing or threatening to kill pets or
4 other animals;

5 (III) an escalation of violence;

6 (IV) stalking, harassment or obsessive
7 behavior;

8 (V) sexual violence; or

9 (VI) a controlled substance, as defined
10 under the act of April 14, 1972 (P.L.233, No.64),
11 known as The Controlled Substance, Drug, Device
12 and Cosmetic Act, or excessive alcohol use.

13 (F) Whether the subject has been adjudicated as
14 incompetent or has been involuntarily committed to a
15 mental institution for inpatient care and treatment
16 under section 302, 303 or 304 of the act of July 9,
17 1976 (P.L.817, No.143), known as the Mental Health
18 Procedures Act. This paragraph shall not apply to any
19 proceeding under section 302 of the Mental Health
20 Procedures Act unless the examining physician has
21 issued a certification that inpatient care was
22 necessary or that the subject was committable.

23 (G) Whether the subject has been convicted of an
24 offense enumerated in section 6105(b).

25 (H) Whether the subject has been convicted of an
26 offense under The Controlled Substance, Drug, Device
27 and Cosmetic Act or any equivalent Federal statute or
28 equivalent statute of any other state that may be
29 punishable by a term of imprisonment of not more than
30 two years.

1 (I) Whether the subject of the petition has been
2 convicted of driving under the influence of alcohol
3 or controlled substance as provided in 75 Pa.C.S. §
4 3802 (relating to driving under influence of alcohol
5 or controlled substance) on three or more separate
6 occasions within a five-year period.

7 (4) If the court orders the subject to temporarily
8 relinquish any firearm, other weapon or ammunition under
9 paragraph (3), the subject shall decide in what manner the
10 subject will relinquish the firearm, other weapon or
11 ammunition listed in the order. Relinquishment may be to the
12 sheriff under section 6190.5(b) (3).

13 (d) Continued hearings.--If a hearing under subsection (a)
14 is continued and no temporary order is issued, the court may
15 make ex parte temporary orders under subsection (c) as it deems
16 necessary.

17 § 6190.7. Return of relinquished firearms, other weapons and
18 ammunition, and additional relief.

19 (a) When permitted.--

20 (1) A court order requiring the relinquishment of
21 firearms, other weapons or ammunition shall provide for the
22 return of the relinquished firearms, other weapons or
23 ammunition to the subject upon revocation, vacation or
24 expiration of the order or dismissal of a petition for a
25 firearm restraining order.

26 (2) The subject may take custody of the relinquished
27 firearms, other weapons or ammunition provided that the
28 subject is otherwise eligible to lawfully possess the
29 relinquished firearms, other weapons or ammunition.

30 (3) The subject shall not be required to pay any fees,

1 costs or charges associated with the returns, whether the
2 fees, costs or charges are imposed by the Pennsylvania State
3 Police, any local law enforcement agency or any other entity,
4 including a licensed importer, licensed manufacturer or
5 licensed dealer, in order to secure return of the
6 relinquished firearms, other weapons or ammunition.

7 (b) Hearing.--Within 10 business days of the filing of a
8 petition under this section, a hearing shall be held before the
9 court.

10 § 6190.8. Relinquishment for consignment sale, lawful transfers
11 and safekeeping.

12 (a) General rule.--Notwithstanding any other provision of
13 law, if a firearm restraining order provides for the
14 relinquishment of firearms, other weapons or ammunition during
15 the period of time the order is in effect, the subject may,
16 within the time frame specified in the order and in lieu of
17 relinquishment to the sheriff, relinquish to a dealer licensed
18 under section 6113 (relating to licensing of dealers) any
19 firearms, other weapons or ammunition for consignment sale,
20 lawful transfers and safekeeping.

21 (b) Affidavit.--The subject relinquishing firearms, other
22 weapons or ammunition to a licensed dealer under subsection (a)
23 shall obtain an affidavit from the dealer on a form prescribed
24 by the Pennsylvania State Police which shall include, at a
25 minimum, the following:

26 (1) The caption of the case in which the firearm
27 restraining order was issued.

28 (2) The name, address, date of birth and Social Security
29 number of the subject.

30 (3) A list of the firearms, other weapons or ammunition,

1 including, if applicable, the manufacturer, model and serial
2 number.

3 (4) The name, license number and address of the licensed
4 premises of the dealer licensed under section 6113 receiving
5 the relinquished firearm, other weapon or ammunition.

6 (5) An acknowledgment that the firearms, other weapons
7 or ammunition will not be returned to the subject or sold or
8 transferred to an individual the dealer knows is a family or
9 household member of the subject while the firearm restraining
10 order is active under this subchapter or a protection from
11 abuse order is active under 23 Pa.C.S. Ch. 61 (relating to
12 protection from abuse) which order or orders provide for the
13 relinquishment of the firearm, other weapon or ammunition
14 being returned, sold or transferred.

15 (6) An acknowledgment that the firearms, other weapons
16 or ammunition, if sold or transferred, will be sold or
17 lawfully transferred in compliance with this chapter.

18 (c) Failure to provide affidavit.--

19 (1) The subject relinquishing firearms, other weapons or
20 ammunition to a dealer under subsection (a) shall, within the
21 time frame specified in the order for relinquishing firearms,
22 other weapons or ammunition, provide to the sheriff the
23 affidavit obtained under subsection (b) and relinquish to the
24 sheriff any firearms, other weapons or ammunition ordered to
25 be relinquished which are not specified in the affidavit, in
26 an affidavit provided in accordance with section 6190.5(b)(3)
27 (i)(B) (relating to relief).

28 (2) If the subject fails to comply with paragraph (1),
29 the sheriff shall, at a minimum, provide immediate notice to
30 the court, the petitioner and appropriate law enforcement

1 agencies.

2 (d) Form.--The Pennsylvania State Police shall develop and
3 make available to licensed dealers a form to be used by dealers
4 to accept possession of firearms, other weapons or ammunition
5 for consignment sale, lawful transfer or safekeeping under this
6 section.

7 (e) Transfer upon entry of final order.--

8 (1) Upon entry of a final firearm restraining order
9 issued under section 6190.5, which provides for the
10 relinquishment of firearms, other weapons or ammunition
11 during the period of time the order is in effect, the subject
12 who relinquished firearms, other weapons or ammunition to the
13 sheriff under a temporary order may request that the
14 firearms, other weapons or ammunition be relinquished to a
15 dealer for consignment sale, lawful transfer or safekeeping
16 under this section.

17 (2) If the subject identifies a licensed dealer willing
18 to accept the firearms, other weapons or ammunition in
19 compliance with this section, the court shall order the
20 sheriff to transport the firearms, other weapons or
21 ammunition to the licensed dealer at no cost to the subject
22 or the licensed dealer.

23 (f) Nondisclosure.--The affidavit obtained under subsection
24 (b) shall not be subject to access under the act of February 14,
25 2008 (P.L.6, No.3), known as the Right-to-Know Law.

26 (g) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection:

29 "Safekeeping." The secure custody of firearms, other weapons
30 or ammunition ordered to be relinquished by an active firearm

1 restraining order.

2 "Sale or lawful transfer." A sale or transfer to a person
3 other than the subject or a family or household member of the
4 subject which is conducted in accordance with this chapter.

5 § 6190.9. Disclosure and confidentiality.

6 (a) Certain disclosures prohibited.--

7 (1) During the course of a proceeding under this
8 subchapter, the court or hearing officer may consider whether
9 the petitioner or petitioner's family or household members or
10 other person would be endangered by disclosure of the
11 permanent or temporary address of the petitioner or
12 petitioner's family or household member or other person. If
13 the court determines that disclosure of the petitioner's
14 address may pose a threat to the physical safety of the
15 petitioner, a family or household member of the petitioner or
16 other person, the court or hearing officer shall not require
17 disclosure of the petitioner's, family or household member's
18 or other person's address in either the pleadings or during
19 proceedings or hearings under this subchapter.

20 (2) If the court concludes that the subject continues to
21 pose a threat to the physical safety of the petitioner, a
22 family or household member of the petitioner or another
23 person and where the petitioner, family or household member
24 or other person requests that his or her address, telephone
25 number and information about his or her demographic
26 information not be disclosed, the court shall enter an order
27 directing that law enforcement agencies and any other person
28 or entity, as the court so determines, shall not disclose the
29 presence of the petitioner, family or household member or
30 other person in any jurisdiction or furnish any address,

1 telephone number or any other demographic information about
2 the petitioner, family or household member or other person,
3 except by further order of the court.

4 (b) Confidentiality.--Information retained to ensure
5 compliance with this subchapter shall not be subject to access
6 under the act of February 14, 2008 (P.L.6, No.3), known as the
7 Right-to-Know Law.

8 § 6190.10. Service of order.

9 (a) Issuance.--A copy of an order under this subchapter
10 shall be issued to the petitioner, the subject and the local law
11 enforcement agencies with appropriate jurisdiction to enforce
12 the order in accordance with the provisions of this subchapter
13 or as ordered by the court or hearing officer.

14 (b) Placement in registry.--

15 (1) Upon receipt of an order, the local law enforcement
16 agency shall immediately advise the Pennsylvania State Police
17 of entry of the order and collaborate with the Pennsylvania
18 State Police to ensure that the order is timely entered into
19 the registry established in accordance with 23 Pa.C.S. § 6105
20 (relating to responsibilities of law enforcement agencies).

21 (2) The local law enforcement agency with jurisdiction
22 shall continue to collaborate with the Pennsylvania State
23 Police to ensure that the registry is current at all times
24 and that orders are removed upon vacation or expiration.

25 § 6190.11. Violation of order.

26 (a) Arrest and verification.--

27 (1) An arrest for violation of an order issued under
28 this subchapter may be without warrant upon probable cause
29 whether or not the violation is committed in the presence of
30 the law enforcement officer or sheriff in circumstances where

1 the subject has violated a provision of an order consistent
2 with section 6190.5 (relating to relief).

3 (2) The law enforcement officer or sheriff may verify
4 the existence of a firearm restraining order by telephone,
5 radio or other electronic communication with the appropriate
6 law enforcement agency, the Pennsylvania State Police
7 registry or the issuing authority.

8 (3) A law enforcement officer or sheriff shall arrest a
9 subject for violating an order issued under this subchapter.

10 (b) Seizure of firearms, other weapons and ammunition.--

11 (1) Subsequent to an arrest, the law enforcement officer
12 or sheriff shall seize all firearms, other weapons and
13 ammunition used or threatened to be used during a violation
14 of a firearm restraining order or during prior incidents that
15 posed an immediate and present danger to the physical safety
16 of the petitioner, a family or household member or other
17 person and any other firearms, other weapons or ammunition in
18 the subject's possession.

19 (2) As soon as it is reasonably possible, the arresting
20 law enforcement officer shall deliver the confiscated
21 firearms, other weapons and ammunition to the office of the
22 sheriff.

23 (3) The sheriff shall maintain possession of the
24 firearms, other weapons and ammunition until the court issues
25 an order specifying the firearms, other weapons and
26 ammunition to be relinquished and the persons to whom the
27 firearms, other weapons and ammunition shall be relinquished.

28 (c) Procedure following arrest.--

29 (1) Subsequent to an arrest under subsection (a), the
30 subject shall be taken by the law enforcement officer or

1 sheriff without unnecessary delay before the court in the
2 judicial district where the contempt is alleged to have
3 occurred. If that court is unavailable, the law enforcement
4 officer or sheriff shall convey the subject to a magisterial
5 district judge designated as appropriate by local rules of
6 court or, in the City of Pittsburgh, to a magistrate of the
7 Pittsburgh Magistrates Court or, in counties of the first
8 class, to the appropriate hearing officer.

9 (2) For purposes of procedure relating to arraignments
10 for arrest for violation of an order issued under this
11 subchapter, the judges of Pittsburgh Magistrates Court shall
12 be deemed to be magisterial district judges.

13 (d) Preliminary arraignment.--The subject shall be afforded
14 a preliminary arraignment without unnecessary delay.

15 (e) Other emergency powers unaffected.--This section shall
16 not be construed to limit any of the other powers for emergency
17 relief provided in this subchapter.

18 (f) Hearing.--A hearing shall be scheduled within 10 days of
19 the filing of the charge or complaint of indirect criminal
20 contempt. The hearing and any adjudication shall not preclude a
21 hearing on other criminal charges underlying the contempt, nor
22 shall a hearing or adjudication on other criminal charges
23 preclude a hearing on a charge of indirect criminal contempt.

24 § 6190.12. Contempt for violations and arrest.

25 (a) General rule.--If the law enforcement officer, sheriff
26 or the petitioner has filed charges of indirect criminal
27 contempt against a subject for violation of the firearm
28 restraining order issued under this subchapter, the court may
29 hold the subject in indirect criminal contempt and punish the
30 subject in accordance with law.

1 (b) Jurisdiction.--The court shall have jurisdiction over
2 indirect criminal contempt charges for violation of a firearm
3 restraining order issued under this subchapter in the county
4 where the violation occurred and in the county where the order
5 was granted.

6 (c) Minors.--A subject who is a minor and who is charged
7 with indirect criminal contempt for allegedly violating a
8 firearm restraining order shall be considered to have allegedly
9 committed a delinquent act as that term is defined in 42 Pa.C.S.
10 § 6302 (relating to definitions) and shall be treated as
11 provided in 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

12 (d) Trial and punishment.--

13 (1) A sentence for contempt under this subchapter may
14 include:

15 (i) (A) a fine of not less than \$300 nor more than
16 \$1,000 and imprisonment for not more than six months;
17 or

18 (B) a fine of not less than \$300 nor more than
19 \$1,000 and supervised probation not to exceed six
20 months; and

21 (ii) an order for other relief set forth in this
22 subchapter.

23 (2) Each fine imposed and collected under this section
24 shall be distributed in the following order of priority:

25 (i) One hundred dollars shall be forwarded to the
26 Commonwealth and shall be allocated, upon appropriation
27 by the General Assembly, to the Pennsylvania State Police
28 to assist with the maintenance of the Statewide registry
29 established in accordance with 23 Pa.C.S. § 6105(e)
30 (relating to responsibilities of law enforcement

1 agencies).

2 (ii) One hundred dollars shall be retained by the
3 county and shall be used to carry out the provisions of
4 this subchapter as follows:

5 (A) Fifty dollars shall be used by the sheriff.

6 (B) Fifty dollars shall be forwarded to the
7 local law enforcement agency.

8 (iii) Fifty dollars shall be forwarded to the
9 Commonwealth and shall be allocated, upon appropriation
10 by the General Assembly, to the Supreme Court for use by
11 county courts and magisterial district courts to carry
12 out their duties under this subchapter.

13 (iv) The balance of the fine, if any, shall be
14 forwarded to the Commonwealth and shall be allocated,
15 upon appropriation by the General Assembly, to the
16 Pennsylvania State Police for the purpose of maintaining
17 the Statewide registry established under 23 Pa.C.S. §
18 6105(e).

19 (3) The subject shall not have a right to a jury trial
20 on a charge of indirect criminal contempt, except that the
21 subject shall be entitled to counsel.

22 (4) Upon conviction for indirect criminal contempt and
23 at the request of the petitioner, the court shall also grant
24 an extension of the firearm restraining order for an
25 additional term.

26 (5) Upon conviction for indirect criminal contempt, the
27 court shall notify the sheriff of the jurisdiction which
28 issued the firearm restraining order of the conviction.

29 (6) The minimum fine required under paragraph (1)
30 allocated under paragraph (2)(i) and (iii) shall be used to

1 supplement and not to supplant any other source of funds
2 received for the purpose of carrying out the provisions of
3 this subchapter.

4 (e) Notification upon release.--

5 (1) The appropriate releasing authority or other
6 official as designated by local rule shall use all reasonable
7 means to notify the petitioner sufficiently in advance of the
8 release of the subject from any incarceration imposed under
9 this subchapter. Notification shall be required for work
10 release, furlough, medical leave, community service,
11 discharge, escape and recapture. Notification shall include
12 the terms and conditions imposed on any temporary release
13 from custody.

14 (2) The petitioner must keep the appropriate releasing
15 authority or other official as designated by local rule
16 advised of personal contact information.

17 (3) Failure of the petitioner to comply with paragraph
18 (2) may constitute waiver of any right to notification under
19 this subsection.

20 (f) Multiple remedies.--Disposition of a charge of indirect
21 criminal contempt shall not preclude the prosecution of other
22 criminal charges associated with the incident giving rise to the
23 contempt, nor shall disposition of other criminal charges
24 preclude prosecution of indirect criminal contempt associated
25 with the criminal conduct giving rise to the charges.

26 § 6190.13. Civil contempt for violation of an order.

27 (a) General rule.--A petitioner may file a petition for
28 civil contempt with the issuing court alleging that the subject
29 has violated any provision of an order issued under this
30 subchapter.

1 (b) Civil contempt order.--Upon finding of a violation of a
2 firearm restraining order issued under this subchapter, the
3 court, either under petition for civil contempt or on the
4 court's own accord, may hold the subject in civil contempt and
5 restrain the subject in accordance with law.

6 (c) Sentencing.--A sentence for civil contempt under this
7 subchapter may include imprisonment until the subject complies
8 with provisions of the order or demonstrates the intent to do
9 so. A term of imprisonment under this section shall not exceed a
10 period of six months.

11 (d) Jury trial and counsel.--The subject shall not have a
12 right to a jury trial except that the defendant shall be
13 entitled to counsel.

14 § 6190.14. Procedures and other remedies.

15 (a) General rule.--Unless otherwise indicated under this
16 subchapter, a proceeding under this subchapter shall be in
17 accordance with applicable general rules and shall be in
18 addition to any other available civil or criminal remedies.

19 (b) Remedies for bad faith.--Notwithstanding any other
20 provision of law, upon finding that an individual commenced a
21 proceeding under this chapter in bad faith, the court shall
22 direct the individual to pay to the subject actual damages and
23 reasonable attorney fees. Failure to prove an allegation of an
24 immediate and present danger to the physical safety of the
25 petitioner, family or household member or other person by a
26 preponderance of the evidence shall not, by itself, result in a
27 finding of bad faith.

28 § 6190.15. Immunity.

29 (a) General rule.--

30 (1) Law enforcement agencies and their employees,

1 including troopers, officers, sheriffs and their deputies,
2 shall, except as provided under subsection (b), be immune
3 from civil liability for actions taken in good faith to carry
4 out their duties relating to the seizure and relinquishment
5 of firearms, other weapons and ammunition as provided for
6 under this subchapter, except for gross negligence,
7 intentional misconduct or reckless, willful or wanton
8 misconduct.

9 (2) A person licensed under the act of July 9, 1987
10 (P.L.220, No.39), known as the Social Workers, Marriage and
11 Family Therapists and Professional Counselors Act, or as a
12 health care practitioner as defined under section 103 of the
13 act of July 19, 1979 (P.L.130, No.48), known as the Health
14 Care Facilities Act, who initiates a proceeding for the
15 issuance of a firearm restraining order in accordance with
16 section 6190.3 (relating to commencement of proceedings)
17 shall not be held civilly or criminally liable for actions
18 taken under the provisions of this subchapter if the person
19 acted in good faith and without malice.

20 (b) Exception.--Law enforcement agencies and their
21 employees, including troopers, officers, sheriffs and their
22 deputies, may be liable to the lawful owner of confiscated,
23 seized or relinquished firearms in accordance with section
24 6105(f) (relating to persons not to possess, use, manufacture,
25 control, sell or transfer firearms) and may be liable to the
26 lawful owner of confiscated, seized or relinquished other
27 weapons or ammunition for any loss, damage or substantial
28 decrease in the value of the other weapons or ammunition that is
29 a direct result of a lack of reasonable care by the law
30 enforcement agency or its employees.

1 § 6190.16. Inability to pay.

2 (a) Order for installment payments.--

3 (1) Upon plea and proof that a person is without the
4 financial means to pay a fine, fee or cost under section
5 6190.5 (relating to relief) or a cost, the court may order
6 payment of money owed in installments appropriate to the
7 circumstances of the person and shall fix the amounts, times
8 and manner of payment.

9 (2) Failure to make payment in the amount, time and
10 manner fixed by the court may subject the person to contempt
11 under the applicable provisions of this subchapter.

12 (b) Use of credit cards.--The treasurer of each county may
13 allow the use of credit cards and bank cards in the payment of
14 finances, fees and costs set forth under this subchapter.

15 § 6190.17. Warrantless searches.

16 Except as provided under section 6190.11 (relating to
17 violation of order), nothing under this subchapter shall
18 authorize a warrantless search for firearms, other weapons or
19 ammunition.

20 § 6190.18. Construction.

21 Nothing under this subchapter shall be construed to:

22 (1) Preclude an action for wrongful use of civil process
23 under 42 Pa.C.S. Ch. 83 Subch. E (relating to wrongful use of
24 civil proceedings) or criminal prosecution for a violation of
25 Chapter 49 (relating to falsification and intimidation).

26 (2) Allow a government agency or law enforcement agency,
27 or an agent or employee of either, or any other person or
28 entity to create, maintain or operate a database or registry
29 of firearm ownership within this Commonwealth, except that
30 information may be retained to ensure compliance with this

1 subchapter and to document the return of relinquished
2 firearms, other weapons and ammunition in accordance with
3 this subchapter.

4 Section 4. This act shall take effect in 60 days.